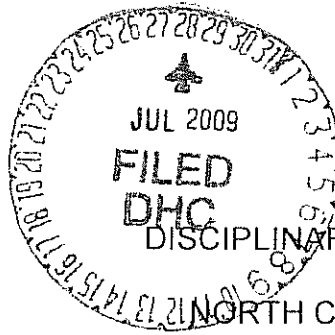


NORTH CAROLINA
WAKE COUNTY



BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
08 DHC 12

THE NORTH CAROLINA STATE BAR,)
Plaintiff)
v.)
THOMAS L. NESBIT, Attorney,)
Defendant)

COMPLAINT

Plaintiff, complaining of defendant, alleges and says:

1. Plaintiff, the North Carolina State Bar (hereinafter "State Bar"), is a body duly organized under the laws of North Carolina and is the proper party to bring this proceeding under the authority granted it in Chapter 84 of the General Statutes of North Carolina, and the Rules and Regulations of the North Carolina State Bar promulgated thereunder.

2. Defendant, Thomas L. Nesbit (hereinafter "Nesbit" or "Defendant"), was admitted to the North Carolina State Bar on August 18, 1984 and is, and was at all times referred to herein, an Attorney at Law licensed to practice in North Carolina, subject to the rules, regulations, and Rules of Professional Conduct of the North Carolina State Bar and the laws of the State of North Carolina.

Upon information and belief, the State Bar alleges:

3. During the times relevant herein, Defendant actively engaged in the practice of law in the State of North Carolina and maintained a law office in Mocksville, Davie County, North Carolina.

First Claim for Relief

4. Plaintiff realleges and incorporates by reference the allegations contained in paragraphs 1 through 3 above as if set out in full herein.

5. During the times relevant herein, Defendant was the President of Fourth Street Property Management, Inc., a North Carolina Corporation (hereinafter "Fourth Street").

6. In 2005 Fourth Street owned an office building located at 130 North Main Street, Mocksville, North Carolina (hereinafter "the property").

7. The property was encumbered by a deed of trust securing a loan from SunTrust Bank to Fourth Street.

8. In July 2005 Fourth Street contracted to sell the property to Michael and Julie Parker free and clear of all liens and encumbrances.

9. On or about November 10, 2005 a closing was held completing the sale of the property to the Parkers.

10. From the closing funds provided on behalf of the Parkers the closing agent prepared a check in the amount of \$115,971.03 payable to Fourth Street representing the sales price less the seller's closing costs.

11. Immediately following the closing on November 10, 2005, Michael Parker delivered to Defendant the \$115,971.03 check.

12. Michael Parker and the closing agent relied on Defendant to deliver some or all of the \$115,971.03 to SunTrust Bank in payment of Fourth Street's obligation to SunTrust in exchange for a release of the property from SunTrust's deed of trust.

13. Defendant knew that Michael Parker and the closing agent were relying on Defendant to deliver some or all of the \$115,971.03 to SunTrust Bank in payment of Fourth Street's obligation to SunTrust in exchange for a release of the property from SunTrust's deed of trust.

14. Defendant did not deliver any funds to SunTrust Bank in payment of Fourth Street's obligation to SunTrust and did not obtain a release of the property from SunTrust's deed of trust.

15. Fourth Street did not convey the property to the Parkers free and clear of all liens and encumbrances.

16. Defendant converted some or all of the \$115,971.03 to his own use and benefit.

THEREFORE, the State Bar alleges that Defendant's foregoing actions constitute grounds for discipline pursuant to N.C.G.S. §84-28(b)(2) in that Defendant violated one or more of the Rules of Professional Conduct in effect at

the time of the actions, to wit: by failing to pay to SunTrust any of the funds he knew were intended to satisfy the lien on the property as contracted, and by converting some or all of the funds to his own use and benefit, Defendant committed criminal acts that reflect adversely on his trustworthiness or fitness to practice law in other respects in violation of Rule 8.4(b) and engaged in conduct involving dishonesty, fraud, deceit or misrepresentation in violation of Rule 8.4(c).

Second Claim for Relief

17. Plaintiff realleges and incorporates by reference the allegations contained in paragraphs 1 through 3 above as if set out in full herein.

18. On or about January 28, 2008 Defendant was indicted by a grand jury in Davie County for one count of Obtaining Property by False Pretenses, a felony, based on his actions in the sale of the property to Michael and Julie Parker described in Count I above.

19. On or about April 7, 2008 in the Superior Court of Davie County Defendant was convicted of the crime of Obtaining Property by False Pretenses, a felony, in violation of N.C.G.S. §14-100.

THEREFORE, the State Bar alleges that Defendant's foregoing actions constitute grounds for discipline pursuant to N.C.G.S. §84-28(b)(1) and (2) in that Defendant violated one or more of the Rules of Professional Conduct in effect at the time of the actions, to wit: by his conviction of Obtaining Property by False Pretenses, a felony, Defendant committed a criminal act that reflects adversely on his trustworthiness or fitness to practice law in other respects in violation of Rule 8.4(b) and has been convicted of a criminal offense showing professional unfitness in violation of N.C.G.S. §84-28(b)(1).

WHEREFORE, the State Bar prays that

1. Disciplinary action be taken against Defendant in accordance with N.C.G.S. §84-28 (c) and 27 N.C.A.C. 1B §.0114 as the evidence on hearing may warrant,

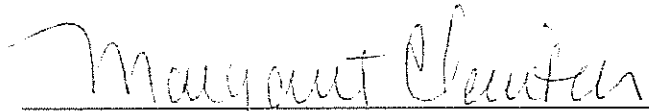
2. Defendant be taxed with the costs permitted by law in connection with this proceeding, and

3. For such other and further relief as is appropriate.

This the 23rd day of July, 2009.



James R. Fox, Chair
Grievance Committee



Margaret Cloutier, Deputy Counsel
Attorney for Plaintiff
The North Carolina State Bar
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